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Plaintiff in pro per

FILED

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RICHARD W. WIEKING
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U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

CBK

James Alan Bush,)	Case No.: C 08-01354 (RS) JF
)	
Petitioner,)	MOTION FOR SUMMARY JUDGMENT FOR
)	PETITION FOR WRIT OF MANDATE
v.)	PURSUANT TO TITLE 28 U.S.C.S.
)	\$ 1361
Federal Bureau of Investigation,)	
and AGENT DOES ONE to TEN,)	[Fed. R. Civ. P. 56(a)]
inclusive,)	
)	
Respondents.)	Judge Jeremy Fogel
_____)	

RELIEF SOUGHT

James Alan Bush, petitioner in the above-entitled action, moves the Court for summary judgment against Federal Bureau of Investigation, Respondent, and prays for summary judgment in favor of the petitioner for all of the relief set forth in the petition for writ of mandate, which seeks to compel the aforementioned respondent to perform their

1 duty owed the petitioner under Title 28 U.S.C.S. § 1361.

2
3 **GROUND FOR RELIEF**

4 The petitioner is entitled to summary judgment because, as is more
5 fully shown in the petition, there is no genuine issue of material fact
6 that needs to be tried in this action; and, there are no affirmative
7 defenses available to the respondents, in that:

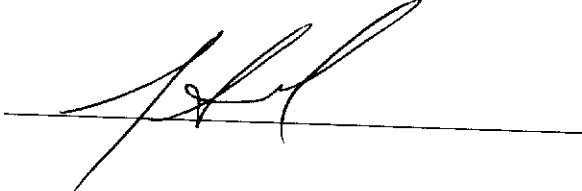
- 8 1. The petition for writ of mandate sufficiently establishes that
9 agents of the Federal Bureau of Investigation have a clear and
10 present legal duty (i.e., nondiscretionary ministerial and statutory
11 requirement) under Title 28 U.S.C.S. § 535(b) to report any
12 information, allegation, and complaint relating to violations of
13 federal criminal law involving government officers and employees to
14 the United States Attorney General.
- 15 2. The Federal Bureau of Investigation has refused, and continues to
16 refuse, to document Petitioner's complaint.

17 Petitioner continues to suffer and incur damages as a result of the
18 deprivation of civil rights guaranteed him by the Fourteenth Amendment
19 to the United States Constitution by law enforcement officials acting
20 under color of state law.

21 Unless the Federal Bureau of Investigation is compelled to perform
22 their duty, Petitioner is likely to sustain further irreparable harm,
23 including death, in that the petitioner is terminally ill, and the
24 ongoing abuse, which is more fully described in the related complaint,
25 continues to this day. Petitioner has suffered a dramatic acceleration
26 of his illness, which can only be attributed to the circumstances and

Events particular to this matter.

Furthermore, Petitioner has exhausted all available remedies prior to seeking mandamus relief; and, he believes that any further efforts to obtain relief from local agencies and state courts will likely result in serious reprisals against him for making allegations of wrongdoing on the part of local law enforcement agencies, as has occurred in the past. For this reason, requirements for exhaustion of efforts to obtain local relief should be considered waived and satisfied.

Signed: 

Dated: 6-11-08